

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. Misc Application No.S-858 of 2025.

Asad Ali Vs. The State and others.

Applicant: Asad Ali **through** Barrister Muhammad Azmatullah Channa, Advocate.

Respondent N.1&2: **Through** Mr. Siraj Ahmed Bijarani, Deputy Prosecutor General.

Respondent No.3: Ghulam Mustafa **through** Mr. Abdul Waheed Lanjar, Advocate.

Date of hearing: 25.02.2026.

Date of decision: 25.02.2026.

ORDER

RIAZAT ALI SAHAR, J.- Through this Cr. Misc Application, the applicant has impugned the order dated 24.11.2025 passed by learned Civil Judge/J.M-II Sehwan, whereby the report U/s 173 Cr.P.C filed by Investigating Officer for accepting summary under "C" class was declined.

2. In short the facts of the case are that the Respondent No.1 (Ghulam Mustafa) lodged FIR bearing crime No.108/2025 for offence U/S 436, 427, 34 PPC with police station Bhan Saeedabad, whereby he stated that on 27.07.2025 at 0600 hours above named accused persons set on fire his Kiryana shop situated near Lohar Mosque, Dua Chowk Bhan. Subsequently, SHO PS Bhaan Saeedabad through Investigation Officer Inspector Muhammad Ali Khaskheli submitted final report U/s 173 Cr.P.C requesting for accepting summary under "C" class, which was declined by the learned Magistrate and took the cognizance against the accused persons (including present applicant). Thus, being aggrieved and dissatisfied, the instant Cr. Misc Application has been preferred.

3. Heard both the learned counsel as well as learned D.P.G at some length and perused the record.

4. After hearing the learned counsel for the parties at length and upon examination of the available record, both sides, by mutual consent,

submitted that the matter may be remanded to the learned Trial Court for fresh consideration. It appears from the record that the learned Magistrate had passed the impugned order without affording an opportunity of hearing to the accused/applicant, particularly when the Investigation Officer, after conducting a thorough investigation, had submitted the report under Section 173 Cr.P.C., classifying the case under "C" Class.

5. In view of above, the instant Cr. Misc Application stands **disposed of** alongwith pending application(s) and the impugned order dated 24.11.2025 passed by the learned Magistrate-II, Sehwan is hereby **set aside**, and the matter is **remanded** back to the learned Magistrate with the direction to reconsider the report submitted under Section 173 Cr.P.C. by the Investigation Officer, namely Muhammad Ali Khaskheli, and thereafter pass a fresh order strictly in accordance with law, after providing a proper opportunity of hearing to both parties.

6. It is pertinent to clarify that the learned Magistrate shall decide the matter independently, strictly in accordance with law, and shall not be influenced by any observations made in this order.

JUDGE

Ali.